

13 Establishing and Updating a Precinct or Polling Place

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13.1 Legal Requirements and Time Restrictions

The Virginia Code sets requirements and time restrictions for polling places in [§§ 24.2-306 - 310.1](#). Polling places also must meet accessibility standards in the Virginians with Disabilities Act, the Voting Accessibility for the Elderly and Handicapped Act, and the Americans with Disabilities Act (ADA) related to public services. *See*, GREB 8 (discussing accessibility). Any changes from what was previously pre-cleared must be precleared under Section 5 of the Voting Rights Act of 1965 unless the locality has bailed out. *See*, GREB 24.

13.1.1 County/City Precinct Poll Location

Polling place changes generally cannot be enacted within 60 days before a general election. [§ 24.2-306](#). In addition, to allow for the decennial census, the General Assembly customarily enacts legislation “freezing” precinct boundary lines while the counting takes place.¹

¹ Prohibited localities are prohibited from enacting changes to precinct boundaries during the period from February 1, 2009, to May 15, 2011. [§ 24.2-309.2](#). Because of this prohibition, required changes based on

Virginia law requires a single polling place for each precinct. [§ 24.2-307](#). The governing body (City Council or Board of Supervisors) establishes by ordinance the election district(s), precinct lines, and polling place for each precinct. No precinct can have fewer than 100 (for a county) or 500 (for a city) or over 5,000 registrants at the time the precinct is established. [§§ 24.2-101, 24.2-307](#).

A precinct when established cannot have more than 5,000 registered voters. [§ 24.2-307](#). The electoral board must notify the governing body if the Presidential election turnout for a precinct exceeds 4,000. Where possible, a polling place should be in a location that provides maximum accessibility for all the voters in the precinct. Ideally, a polling place should be on a well-known street or road, in a well-known public building, and in a location that requires the shortest driving time for voters in the outlying parts of the precinct.

Polling places must be accessible to persons with disabilities. [§ 24.2-310](#). This requirement is discussed in depth in GREB 8, Accessibility.

Where an ideal building and location do not exist, the need for maximum accessibility must be balanced with the need for a structure of adequate size and design to accommodate Election Day voter traffic. In some cases, the best location may be outside the boundaries of the precinct. The Code allows several exceptions to the principle of establishing a polling place within the precinct it serves ([§ 24.2-310](#)):

- A polling place may be located within one mile of the precinct it serves (but it must be within the locality).
- A town polling place may be within one mile of the town precinct it serves (but still within the county).
- A county polling place may be within a city, as long as the city is completely surrounded by the county election district served by the polling place.
- More than one polling place may be in the same building, as long as each polling place is in a separate room or defined area.
- If a precinct that is smaller than the normal size requirement is established (in order to allow all voters in it to vote the same ballot), then the polling place must be within one mile of the precinct boundary. [§ 24.2-309](#).

13.1.2 Town/Town Precinct(s) Poll Location

Virginia law also requires a single polling place for each town or town precinct; a town may have more than one precinct. The town council must by ordinance establish the

presidential election turnout exceeding 4,000 voters vote in a precinct must be adopted promptly during the 2 months following the election. [§ 24.2-307](#). The decennial freeze law has several exceptions such as a court order; provided by law upon a change in the boundaries of the county, city, or town; as a result of a change in the form of government; or as a result of an increase or decrease in the number of local election districts other than at-large districts.

polling place, as well as the precinct lines for each town precinct. A town precinct must be wholly contained within any election district used for the election of one or more council or school board members. [§ 24.2-308](#).

13.1.3 November Town Elections

A town with November elections for town offices must use the regular polling places (and precinct lines) for the county. The county conducts the town election. One or more polling places may need to be treated as "split precincts." [§ 24.2-601](#); *see also*, GREB 14.

13.2 Electoral Board Duties

13.2.1 Gathering Information

If a polling place must be established or moved and there are at least three and a half months before the election, the electoral board shall notify the appropriate governing body (city council, board of supervisors, or town council) which must establish the precinct lines and establish the polling place by ordinance. The electoral board should assist the local governing body in finding new polling places by looking for a site that meets all the criteria under [§§ 24.2-310](#) and [24.2-310.1](#). The electoral board or their representative should present the desired location to the governing body so that they can advertise the proposed ordinance at least twice before the hearing.

The following are among the relevant considerations when choosing a location:

- The polling place must be accessible to all voters with particular consideration given to the needs of the elderly and handicapped. While the general site may be accessible, the electoral board should also consider if the voting area is accessible. Local election officials should visit each potential new site and conduct an accessibility survey before recommending it. Localities should consider the effort and cost (and available funding) necessary to make the site accessible. [§ 24.2-310](#); *see also*, GREB 8.
- The polling place should have electricity, adequate heating and lighting, phone availability.
- The polling place should be available for all general, special, and primary elections.
- Wherever practicable, the polling place shall be located in a public building. [§ 24.2-310](#).
- Where possible, it should be in a location that provides maximum ease of access for all the voters in the precinct. Ideally, a polling place should be on a well-

known street or road, in a well-known public building, and in a location that requires the shortest driving time for voters in the outlying parts of the precinct.

- State Board approval is required to locate a polling place in a private facility that serves primarily as the headquarters, office, or assembly building for any private organization. The SBE must determine that no other building meeting accessibility requirements is available. *However*, SBE approval is not required for a building used by an organization of a civic, educational, religious, charitable, historical, patriotic, cultural, or similar nature. [§ 24.2-310.1](#).

Where an ideal building and location do not exist, selection must balance the need for maximum ease of access with the need for a structure of adequate size and design to accommodate Election Day voter traffic. In some cases, the best location may be outside the boundaries of the precinct. The Code allows several exceptions to the principle of establishing a polling place within the precinct it serves:

- A polling place may be located within one mile of the precinct it serves. [§ 24.2-310](#).
- A town polling place may be within one mile of the town precinct and town boundary it serves. [§ 24.2-310](#).
- A county polling place may be within a city, as long as the city is completely surrounded by the county election district served by the polling place. [§ 24.2-310](#).
- More than one polling place may be in the same building, as long as each polling place is in a separate room or defined area and is adequately marked on Election Day. [§ 24.2-310](#).
- A precinct that is smaller than the required population size may be established if a larger precinct cannot be established in which all persons are voting the same ballot. This situation could arise where redistricting or a boundary change has created a split precinct. *See*, GREB 14. The polling place for such a precinct must be within one mile of the precinct boundary. [§ 24.2-309](#).

Other important issues to consider when choosing a polling place include the following:

- Is it convenient for the voters? While there are no rules regarding maximum travel time to a polling place, it is recommended that, in general a voter should not be expected to spend more than twenty minutes, under normal traffic and weather conditions, driving to the polling place from home. Voters become particularly aggravated if they have to drive past other polling places to get to their polling place, so driving patterns should also be considered when drawing precinct lines and choosing polling places.
- Is the facility conducive to protecting the integrity of the process? For example, is it secure if you must leave machines there overnight?
- Can the safety and comfort of election officials at that site be ensured? For example, will it have heat for winter elections and AC for summer elections? Is it available from 5 AM until 9 PM? Does it have adequate lighting? Where are the restroom facilities?

- Can voting be conducted with a minimum of disruption to the activities that normally take place at that location?
- Look at the overall facility and the actual polling place during a time of normal activity. For example, if a school, visit on a day school is in session. Because there are elections throughout the year, this should be done even if the locality normally does not have class on November election days. Be careful with the use of gymnasiums in educational facilities. Negotiation with facility management may be necessary to ensure that no sporting or other events are scheduled for the evening of Election Day, particularly for special elections, and to make sure that sports equipment is not left where it can impede voting activities or be accessed by voters. Gyms are often cold and acoustically difficult for the hearing impaired, so other types of rooms are preferred if available.
- If the area used for voter entry/exit and the polling place itself normally contains religious displays or governmental displays (especially photos of incumbent officeholders or candidates), consider how to deal with voter complaints, or ask the building owner/manager for temporary changes (if possible) while voting is taking place. If the registrar's office has a display of elected officials' photos, that display should be taken down while absentee voting is taking place if those people are running for election or re-election at that time.
- Has the locality had problems with that location, type of location or building "owner" or manager in the past?
- Consider the logistics and availability of storage, parking, phones, copy machines (for emergency ballots), etc.

13.2.2 Presenting To Local Governing Body

The electoral board should present the desired location to the governing body. Make sure your County Administrator or City Manager is notified and you are on the agenda. The locality must advertise prior to the enactment so that the public can be heard. [§§ 24.2-306, 24.2-307](#).

13.2.3 Preclearance

Unless the locality has completed bailout, any newly established or changed polling place for a county, city or town must be submitted for pre-clearance under the Voting Rights Act. *See*, GREB 24. This may include something as minor as changing a polling place from one room to another in the same building, if the previously approved submission specified the polling room (not just the building). In considering whether a proposed polling place change affects voting, consider the voter's perspective. Could the change confuse or intimidate? The safest course is to make a submission if there is any doubt, particularly with online submission now possible. Only by reference to the earlier preclearance for the polling place can the county, city or town attorney (as appropriate) determine that a submission is not required. *See*, GREB 24 (outlining preclearance procedures and additional information).

The General Registrar must also provide Legislative Services with a copy of the ordinance or minutes for all permanent, temporary or emergency polling place changes, even if the locality is bailed out. [§ 24.2-306](#). Copies of the pre-clearance submission and DOJ approval letter should also be provided when applicable.

The electoral board should anticipate and include the mailing costs and postage expenses for voter notification in the budget request to the locality for the change.

13.2.4 Notifying the Voters

All *active* voters in a new precinct or whose polling place is moved must be notified by mail at least 15 days prior to the next election in which voters will be voting at the new/moved polling place. [§ 24.2-306](#). Inactive voters are excluded from this requirement. See, [§ 24.2-101](#) (containing a definition of “registered voter” which excludes voters not under active status). The General Registrar must notify active voters by mailing a new voter card if their precinct, any voting district, or their polling place changes. When the polling place change is permanent, the General Registrar can request voter cards for this purpose from the SBE. At least 15 days before the next election, voters must be sent a new voter card if the change is permanent or if the change is temporary correspondence can be sent explaining the temporary change. The General Registrar can request SBE to provide mailing labels if the change is temporary.

13.3 Emergency Changes of Polling Place

Under the Code, the term “emergency” is strictly construed to mean “a rare and unforeseen combination of circumstances, or the resulting state, that calls for immediate action”. See, [§ 24.2-310\(D\)](#) (codifying [Op. Va. Att’y Gen. 09-081](#)). When such an emergency make a polling place inaccessible or unusable within the 60 day general election barrier of [§ 24.2-306](#), the SBE may approve an emergency relocation of that polling place. This approval is subject to preclearance for localities that not bailed out from the requirements of section 5 of the Voting Rights Act of 1965.² Once approval is granted localities are required to provide notice to both voters and candidates. [§ 24.2-310\(D\)](#).

Authority to approve emergency polling place relocations has been delegated to the Secretary. The statute requires prior approval for the relocation *and not* an after the fact rubber stamp without any evaluation. The Secretary may request the full Board to consider the matter before or after approving a request, as a matter for possible action

² This 60 day state law barrier for general elections in [§ 24.2-306](#) should not be confused with the 60 days preclearance review in federal law, [42 USC 1973c](#). No approval by SBE can excuse or substitute for the requirement of preclearance review when applicable or authorize use of polling places that have not been precleared.

under [§§ 24.2-103](#) and [24.2-234](#) or even referral to a Commonwealth's attorney under [§ 24.2-1001](#).

If a polling place becomes unusable or inaccessible more than 60 days before the election, the electoral board should act immediately to work with the local governing body to find an alternate polling place site in compliance with all applicable deadlines, including enactment and advertising more than 60 days before the next general election and preclearance if applicable. An emergency request cannot be approved unless it is clear that the nature of the emergency—as opposed to inaction by responsible persons—requires immediate action and approval by SBE.

If a permanent relocation is not possible, the electoral board may erect or rent a temporary building – such as a trailer – as the temporary site, as long as it is generally accessible to the voters. Whether the new site is within the same building or at another location, the electoral board must comply with the following requirements:

- Notify SBE and secure their approval and assistance by submitting *Emergency Polling Place Relocation Approval Request Form* (SBE-310). [§ 24.2-310](#).
- Forward to SBE a copy of the ordinance or minutes, even if bailed out.
- Request pre-clearance from the Department of Justice, if not bailed out.
- Forward to SBE a copy of the pre-clearance submission of the Voting Rights Act submitted to the U.S. Department of Justice (DOJ) for approval.
- Notify voters and all candidates on the ballot. Notice to political parties is also recommended to assure notice to candidates. If the relocation is permanent and time allows, voter cards should be mailed at least 15 days before the next election or as soon as possible based on the emergency circumstances. If the relocation is temporary and time allows, voters and candidates should be mailed correspondence explaining why the temporary emergency change is necessary. If there is not enough time to mail notice, the electoral board should use the best means of public advertising available such as a large or full page advertisement in local papers.
- Forward pre-clearance approval letter to SBE and the Division of Legislative Services upon receipt.

When emergencies arise on or shortly before Election Day, the locality may not be able to obtain preclearance from DOJ before the election. On Election Day, voters may be notified by notice in the media, other means of communication or placing notification on voter's door. Should this situation arise, seek advice from SBE regarding notifying the affected voters under the circumstances. *See*, GREB 24.

13.4 Entry into VERIS and Required Forms

Reference the Poll Location Step by Steps document for assistance with entering any permanent new or changed Poll Location in VERIS. Temporary Poll Location change should not be entered in VERIS. Permanent changes should be entered in VERIS only

after required approvals have been received from SBE, as well as DOJ if the locality is not bailed out. If the locality is bailed out, the relocation may be entered in VERIS upon the governing body's (city council, board of supervisor or town council) enactment of an ordinance or minutes for the Poll Location. The VERIS Poll Location module includes the facility's name, address, city, state, zip code, telephone number, contact name, etc. This serves as a database of the polling place for each precinct.

After the General Registrar has changed the Poll Location in VERIS, the General Registrar must provide SBE with a copy of the ordinance or minutes, a completed applicable Poll Location Relocation Form (SBE-15) even if the locality is bailed out. The General Registrar must also provide SBE with a copy of the pre-clearance submission to DOJ and a copy of the approval letter from DOJ, if the locality is not bailed out. Upon receipt of the documents, the requested output media (voter cards or labels) will be printed and shipped to the locality.

If the Poll Location is for a new established precinct, after the General Registrar has entered the poll location information in VERIS and forwarded the appropriate documents to SBE, SBE will associate the new poll location to the new precinct in VERIS.

13.5 Poll Copy

Poll Locations must be copied to each election so that the correct poll location will appear on new voter cards, on the SBE public website voter registration and polling place lookups, and on reports. The Locality Election Districts Precinct and Polling Places Report will list poll locations in the locality, or the Town Precinct Polling Places By Locality Report will list Town Poll Locations (if applicable) in the locality. Reference the Poll Location Step by Steps document for assistance.